

Title 6: Economic Development

Part 2: Minority and Small Business

Part 2 Chapter 4: Mississippi Capital Access Contract Loan Program (MS CAP)

Rule 4.1 Overview. The Mississippi Capital Access Program, administered by the Mississippi Development Authority (MDA), is designed to increase the availability of financing for borrowers who for various reasons might have difficulty in obtaining conventional loans. The essential element of the program is a loan secured by proceeds of a public contract (“Contract Loan”). The loan will be made on the basis of a construction contract with a public entity having been awarded to the borrower.

Source: Miss. Code Ann. § 57-69-5 (Rev. 2008)

Rule 4.2 Definitions. For the purpose of this program, the “socially and economically disadvantaged” shall have the meaning ascribed to such term under the Small Business Act (15 U.S.C., Section 637[a] and shall include woman. Businesses qualifying as minority or women owned must sign a notarized affidavit indicating ownership.

Source: Miss. Code Ann. § 57-69-5 (Rev. 2008)

Rule 4.3 Proper Use of CAP Loans. Contract loans may be used for cost associated with a construction project or construction related contract being used as collateral for each loan. A properly notarized “letter to redirect funds” may be substituted in lieu of a contract with certain governmental agencies. Such letters must be pre-approved by the Mississippi Development Authority. In the event the contract involves a subcontractor, the subcontractor may also apply for the Capital Access Contract Loan. In this case, the prime contractor or other qualified entities must agree to pay the subcontractor’s loan amount directly to the lending institution. The maximum amount that may be loaned to anyone borrower is the greater of \$75,000.00 or 75% of the contract amount. This loan program has a limit of three loans per borrower. The loan may not be used in conjunction with any other State finance program. The Mississippi Development Authority may at its discretion require control of use and disbursement of funds on these loans. The applicant will be responsible for the cost of all fees associated with the loan.

Source: Miss. Code Ann. § 57-69-5 (Rev. 2008)

Rule 4.4 Improper Use of CAP Loans. Capital Access Contract Loans are not available under the following circumstances:

- A. To pay off existing debt for consolidation purposes;
- B. If the direct or indirect purpose or result would be to pay off creditors of applicants who are inadequately secured or in a position to sustain a loss;
- C. If the assistance would, directly or indirectly, provide or replenish funds for payment, distribution, or a loan to owner, partners, or stockholders of the Small Business and would not change the ownership interest of the business (does not apply to ordinary compensation for services rendered in the course of business);

D. If the loan funds would provide funds for speculation in a any kind of property; or if the assistance would finance the acquisition, construction, improvement, or operation of real property which is to be held primarily for sale or investment;

E. If the loan is for construction or purchase of residential housing.

Each loan made under the Capital Access Contract Loan Program must be approved by the Mississippi Development Authority.

Source: Miss. Code Ann. § 57-69-5 (Rev. 2008)

Rule 4.5 Eligibility. An eligible Financial Institution is any commercial bank, savings bank, or association domiciled or qualified to do business in the State and other types of financial institutions, including but not limited to Small Business Investment Corporations, (Hereafter referred to as “Financial Institution”). For the purpose this loan program, the participating Financing Institutions will be those that have qualified to participate in the Capital Access Loan Program.

Source: Miss. Code Ann. § 57-69-5 (Rev. 2008)

Rule 4.6 Eligible Businesses. Businesses, which are eligible to participate in the Capital Access Program, must fall into one of the following categories:

A. A Small Business, which is defined as any independently owned and operated for-profit, commercial enterprise domiciled in the State with less than 50 full-time employees. Owner(s) must have completed the Model Contractor Development Program or completed the small business training programs offered through the Entrepreneur Center; or

B. A Small Disadvantaged Business, which is publicly owned with at least 51 % of its stock unconditionally owned by one or more socially and economically disadvantaged individuals, and whose management and daily operation is controlled by one or more such individuals; or

C. A Minority Business that meets the definition of a minority or woman owned business. A minority or woman owned business is a business enterprise, which is socially and economically disadvantaged and owned and operated by one or more women or eligible minorities. The business must be organized for profit and perform a commercially useful function.

Source: Miss. Code Ann. § 57-69-5 (Rev. 2008)

Rule 4.7 Sole Proprietorship Restriction. If the Small Business is a sole proprietorship, the owner must be a resident citizen of the State of Mississippi and if the business is a corporation or partnership, at least 51 % of the owners must be resident citizens of Mississippi.

Source: Miss. Code Ann. § 57-69-5 (Rev. 2008)

Rule 4.8 Ability to Repay. The small business must be credit-worthy and demonstrate the ability to repay the loan, the ability to successfully fulfill the contract being used as collateral, must be in compliance with all state and federal regulatory agencies, and must not be in default on any previous debt or obligation with the state or federal government.

Source: Miss. Code Ann. § 57-69-5 (Rev. 2008)

Rule 4.9 Ineligible Small Businesses. Small Businesses that are not eligible for assistance under this program are:

- A. Charitable institution or nonprofit enterprise; or
- B. Newspaper, magazine, radio, television broadcasting company, or similar enterprise through which editorial opinions are expressed; or
- C. Businesses engaged in lending, directly or indirectly;
- D. Immediate relatives of any current staff or board members of a Financial Institution.
- E. Immediate relative is defined as a spouse, parent, child or sibling of the applicant.

Source: Miss. Code Ann. § 57-69-5 (Rev. 2008)

Rule 4.10 Use of Loan Proceeds. MS CAP may be used to finance costs associated with the creation or expansion of a Small Business, including fixed assets, working capital, start-up costs, rental payments, interest expense during construction, and professional fees related to the project. The maximum amount that may be loaned to anyone borrower is \$150,000. The Loan may not be used in conjunction with any other State finance program.

Source: Miss. Code Ann. § 57-69-5 (Rev. 2008)

Rule 4.11 Restriction on Use. The Financial Institution sets the terms and conditions of the MS CAP loan. However, the funds cannot be used to pay off:

- A. Existing debt and/or creditors; or
- B. Consolidation purposes;
- C. Construction or purchase of residential housing; or real property that is held primarily for sale or investment.

Each MS CAP Loan must be approved by MDA to qualify for the program.

Source: Miss. Code Ann. § 57-69-5 (Rev. 2008)

Rule 4.12 Contribution Outline.

- | | |
|---------------------------|---|
| A. Small Business | A minimum of 1.5% of the loan amount;
A maximum of 3.5% |
| B. Financial Institutions | Will match the amount deposited by the Small Business
(The Financial Institution may recover all or part of its
contribution from the Small Business in the form of loan
proceeds or cash injection) |
| C. Capital Access Program | Will match the total amount contributed by the Financial
Institution and the Small Business. |

Source: Miss. Code Ann. § 57-69-5 (Rev. 2008)

Rule 4.13 Loan Terms. The interest rate on this loan program shall be 0%. The length of the secured contract shall dictate the length of the loan.

Source: Miss. Code Ann. § 57-69-5 (Rev. 2008)

Rule 4.14 Applications. Interested borrowers should contact a participating financial institution and for any additional information pertaining to the Mississippi Capital Access Program, please contact:

MISSISSIPPI DEVELOPMENT AUTHORITY
Financial Resources Division
Post Office Box 849
Jackson, MS 39205
Telephone: (601) 359-3552 or Fax: (601) 359-3619

Source: Miss. Code Ann. § 57-69-5 (Rev. 2008)

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